IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.292 OF 2004
ALONGWITH
CRIMINAL APPLICATION NO.3194 OF 2004

Keru Laxman Doiphode & Ors. .. Petitioners.
Vs.
State of Maharashtra .. Respondent.

Mr.S.M.Oak for the petitioners.
Mr.R.Y.Mirza APP for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 23RD AUGUST, 2004

P.C.:

. Heard Mr.Oak, learned counsel for the applicant and Mr.Konde-Deshmukh, learned A.P.P. for the respondent.

2. Rule, returnable forthwith. Mr.Konde-Deshmukh, learned A.P.P. waives service for the respondent. By consent of the parties taken up for final hearing.

3. This revision is directed against the judgment and order of conviction passed by the trial court and affirmed by the appellate court under sections 324 read with 34 of Indian Penal

Code by which the petitioners were sentenced to suffer R.I. for three months and to pay fine of Rs.500/- and under section 506(Latter Part) to suffer R.I. for one month. The petitioners were charged and tried for offences under sections 326, 324, 323 and 506 read with 34 of Indian Penal Code and under section 25 of Arms Act.

4. The occurrence took placed in the intervening night of 26.5.1992 and 27.5.1992 in which it is alleged that all the petitioners entered the house of the informant - Minya Bhosale and assaulted him and other inmates of the house consisting of his two wives, brother - Antya and committed theft. The informant and others allegedly sustained injuries in the said occurrence. The motive for committing the crime was some money transaction between petitioner no.1 and the informant.

5. I have perused the impugned judgments and the statements of the complainant, P.W.2 - Vimal Minya, P.W.3 - Antya and two doctors namely P.W.7 - Dr.Shende and P.W.8 - Hegade. From their evidence it appears that Jayshree Minya Bhosale alone had sufferred following injuries:

1. CLW left paratialregion 7 cm X 2 cms bone deep and

2. CLW left frontal process (forehead) 3 cm X 2 cms scalp deep.

6. Dr.Shende had opined that the injuries were of grievous nature. He had also opined that those were possible by fall. No X-ray was taken, however, the doctor after clinical examination found that there was a fracture of scalp bone.

7. Keeping in view the evidence that was lead by the prosecution Mr.Oak, learned counsel for the petitioners did not press this revision for acquittal and prayed for reduction of the sentence to undergone. Mr.Mirza, learned A.P.P. did not seriously opposed the prayer in view of the passage of time. He, however, submitted that fine may be enhanced and, if recovered, be paid to the victim. Mr.Oak, on instructions, volunteered to pay more fine. Looking to the overall facts and circumstances of the case, I am inclined to accept the submissions of the learned counsel for the petitioners. In the result the revision is partly

allowed.

. The conviction under section 324 of Indian Penal Code and under section 506 (Latter Part) read with section 34 stands confirmed. The sentence of R.I. for three months and one month, which were to run concurrently, is brought down to undergone. The petitioners, in addition to fine of Rs.500/- each, to pay fine of Rs.1000/- each within eight weeks from the date of their release. In default of payment of fine amount, the petitioners to further suffer R.I. for 30 days. On the petitioners' depositing an amount of fine, Rs.3,000/- be paid to the victim - Jayshree Minya Bhosale. The concerned police station to inform the victim about this order to enable her to receive an amount of R.3,000/-. It is needless to say that the trial court shall pass appropriate orders as and when the vicitm Jayshree Minya Bhosale files an application for withdrawal of the aforestated amount.

. The application is disposed of.

(D.B.Bhosale, J.)